

D3MJFRUC

Conference

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

12 Cr. 963 WHP

5 DORIAN FRUNGILLO and
6 JENNIFER SALABARIETTA-AGUERO,

7 Defendants.

-----x

10 March 22, 2013
11 12:07 p.m.

12
13 Before:

14 HON. WILLIAM H. PAULEY III,

15 District Judge

16
17 APPEARANCES

18
19 PREET BHARARA,
20 United States Attorney for the
21 Southern District of New York
22 ELISHA KOBRE,
23 Assistant United States Attorney

24 AARON J. MYSLIWIEC,
25 Attorney for defendant Frungillo

DONALD duBOULAY,
Attorney for defendant Salabarietta-Aguero

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1 (In open court)

2 (Case called)

3 THE COURT: Good afternoon. Please be seated. I note
4 the presence of Mr. Frungillo at counsel table. Are you
5 standing in for Mr. Dratel?

6 MR. MYSLIWIEC: Yes, your Honor.

7 THE COURT: Mr. Frungillo, do you consent to having
8 Mr. Mysliwiec stand in for your attorney today at this
9 proceeding?

10 DEFENDANT FRUNGILLO: Yes, your Honor.

11 THE COURT: Very well. Thank you I note the presence
12 of Ms. Salabarietta-Aguero at counsel table.

13 Mr. Kobre, what is the status of this matter?

14 MR. KOBRE: The government has produced discovery in
15 this case. The government has also began discussing with both
16 defendants potential disposition of the case, and based on my
17 conversations with both attorneys for the defendants, I think
18 what we would like to ask for is a motion schedule, but
19 somewhat delayed to allow for some continuing discussions about
20 a potential disposition. The defense counsel can obviously
21 correct me on that.

22 THE COURT: All right. Mr. Mysliwiec?

23 MR. MYSLIWIEC: That's correct, your Honor.

24 I think our conversations are significant and entered
25 into with an intent to do some real work on these conversations

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1 in the next couple of weeks, so that if it turns out that they
2 break down, then we would file the motions, but on the front of
3 this, they look promising.

4 THE COURT: What motions would you be filing?

5 MR. MYSLIWIEC: We probably would file some motions
6 relating to how Mr. Frungillo was arrested in this case. He
7 was essentially taken from Panama. We are still doing some
8 research on the kinds of issues related to the process of the
9 arrest. There may be some other things regarding the
10 indictment that we would file.

11 We have looked through most of the discovery at this
12 point. I don't think that a suppression motion will be on
13 normal sorts of things like statements would be part of it, but
14 there might be some other kinds of motions.

15 THE COURT: All right. Thank you.

16 Mr. duBoulay?

17 MR. duBOULAY: I concur, that is exactly right, we are
18 proceeding along apace with negotiations to resolve the case.

19 THE COURT: Are you in agreement with a delayed motion
20 schedule?

21 MR. duBOULAY: Yes, your Honor, absolutely.

22 THE COURT: Here's what I will do then.

23 Since the situation sounds like it is somewhat fluid,
24 I'll give you some time to try to bring your discussions to
25 fruition, but if that is not to be, then I think by April 26th

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1 the parties should file any motions that they wish to file in
2 the case. Is that a schedule that you can live with?

3 MR. MYSLIWIEC: Just because of the holidays that are
4 coming up, if we can have some date in the first week of May?

5 THE COURT: May 10.

6 MR. MYSLIWIEC: Thank you.

7 THE COURT: May 10 for the filing of any motions. May
8 22 for any opposition by the government. May 29 for any reply.
9 I'll set the matter down for a conference on June 7th, at 2:30.

10 If you reach an agreement regarding the matter in the
11 next several weeks, please notify my Deputy so that I can use
12 the time on June 7th for another proceeding.

13 What are the defendants' views concerning the
14 exclusion of time between now and June 7, 2013?

15 MR. MYSLIWIEC: Mr. Frungillo consents to the
16 exclusion of time, your Honor.

17 MR. duBOULAY: As does Ms. Salabarietta-Aguero.

18 THE COURT: Since this continuance is due to ongoing
19 good-faith negotiations between the parties and the government
20 and the defendants' announced intentions to make certain
21 pretrial motions, I prospectively exclude the time from today
22 until June 7, 2013 from Speedy Trial Act calculations.

23 I find that this continuance serves to ensure the
24 effective assistance of counsel and prevents any miscarriage of
25 justice. Additionally, I find that the ends of justice served

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1 by such a continuance outweighs the best interests of the
2 public and each of these defendants in a speedy trial pursuant
3 to 18 U.S.C. Section 3161.

4 Are there any other matters that counsel wish to raise
5 this afternoon?

6 MR. KOBRE: Not from the government.

7 MR. MYSLIWIEC: No, your Honor.

8 MR. duBOULAY: No, your Honor.

9 THE COURT: Thank you for coming in. Have a good
10 weekend.

11 (Court adjourned)